

1 JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

4 GREGG W. LOWDER (CABN 107864)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102-3495
7 Telephone: (415) 436-7044
FAX: (415) 436-7234
Gregg.Lowder@usdoj.gov

8 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,) No. CR 3-08-70524 BZ
15 Plaintiff,)
16 v.) [PROPOSED] ORDER OF DETENTION
17 ELISARA TAITO, et. al.,) OF DEFENDANT ELISARA TAITO
18 Defendant.)
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20 The defendant Elisara Taito came before this Court on August 22, 2008 for detention
21 hearing. The defendant was present and represented by Juliana Drous, Esq. Assistant United
22 States Attorney Gregg W. Lowder represented the United States.

23 The government requested detention, submitting that no condition or combination of
24 conditions would reasonably assure the appearance of the defendant as required and the safety of
25 the community.

26 Pretrial Services submitted a report recommending detention.

27 Upon consideration of the Pretrial Services report, the court file and the party proffers as
28 discussed below, the Court finds by a preponderance of evidence that no condition or

Detention Order: Elisara Taito

1 combination of conditions of release could reasonably assure the appearance of the defendant as
2 required. The Court also finds by clear and convincing evidence that no condition or
3 combination of conditions will reasonably assure the safety of any other person and the
4 community. The Court orders the defendant detained.

5 The present order supplements the Court's findings at the detention hearing and serves as
6 a written findings of fact and statement of reasons as required by 18 U.S.C. § 3142(I).

7 The Bail Reform Act of 1984, 18 U.S.C. §§ 3141-50, sets forth the factors which the
8 Court must consider in determining whether pretrial detention is warranted. In coming to its
9 decision, the Court has considered those factors, paraphrased below:

- 10 (1) the nature and seriousness of the offense charged;
11 (2) the weight of the evidence against the person;
12 (3) the history and characteristics of the person including, among other considerations,
13 employment, past conduct and criminal history, and records of court appearances; and
14 (4) the nature and seriousness of the danger to any person or the community that would
15 be posed by the person's release.

16 18 U.S.C. § 3142(g).

17 In considering all of the facts and proffers presented at the hearing, the Court finds the
18 following factors among the most compelling in reaching its conclusion that no combination of
19 conditions could reasonably assure the defendant's future appearances and the community's
20 safety. First, the defendant has demonstrated an escalating level of criminality over time. In the
21 last four years, the defendant has been convicted of traffic offenses, later followed by a
22 conviction for misdemeanor grand theft, and later convicted of a felonious drug trafficking
23 offense. Second, the prior convictions have each resulted in a sentence of probation. The
24 defendant violated his probation in those convictions by committing further criminal acts. His
25 conduct demonstrates that he is not amenable to supervision during release to the community.
26 Third, the Court finds the present offense to be violent, involving armed bank robbery, the
27 physical confrontation and threat of shooting a bank teller, and a relatively sophisticated plan for
28 taking over the bank and stealing from the bank's vault. The Court finds the loaded firearm

1 discovered in the getaway car after the robbery demonstrates the ability and apparent intent to
2 carry out the physical violence threatened during the bank robbery. These factors, among others
3 adduced at the hearing, clearly and convincingly demonstrate that if released the defendant would
4 be a danger to the community and unlikely to appear as required.

5 Accordingly, pursuant to 18 U.S.C. § 3142(I), IT IS ORDERED THAT:

- 6 (1) the defendant is committed to the custody of the Attorney General for confinement in
7 a corrections facility separate, to the extent practicable, from persons awaiting or serving
8 sentences or being held in custody pending appeal;
- 9 (2) the defendant be afforded reasonable opportunity for private consultation with his
10 counsel; and
- 11 (3) on order of a court of the United States or on request of an attorney for the
12 government, the person in charge of the corrections facility in which the defendant is
13 confined shall deliver the defendant to an authorized Deputy United States Marshal for
14 the purpose of any appearance in connection with a court proceeding.

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16 Dated:

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19 JOSEPH C. SPERO
United States Magistrate Judge
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